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MOTION FOR NEW TRIAL
FOR WALLACE IS HEARD

(Continued from page three)

(Signed) Benjamin D. Hodges,
Notary Public for South Carolina.

Personally appeared before me W. H. Hatchell, who, being duly sworn, says:

That he is thirty three years of age, resides at 1419 Jefferson Street, Columbia, S. C., and is a salesman for the Peoples Furniture Co., of Columbia, S. C.

That deponent has known J. C. Wallace for several years, and saw in the paper sometime ago of his conviction and sentence on the charge of assault with intent to ravish; that deponent then wrote to Wallace not being sure that the man, convicted was the man he knew, and in that way got in touch with him again; that when deponent ascertained this fact, in a friendly way, he wrote Wallace, and told him that if there was anything he could do for him, to let him know.

That deponent heard nothing more from Wallace, or about him, until the 12th day of December, 1921, when, at night, Newton B. Cockerill came to deponent's house, introduced himself to deponent, and told deponent that he had come to him, as he knew that he was a friend of Wallace's, and that he, Cockerill, had something to tell deponent about the case.

Cockerill said that he had come to Columbia for the purpose of recalling what he had done; that he intended to make an affidavit in Columbia; that he did not know who to go to to have the affidavit prepared, and had come to deponent to direct him; that he was afraid to make an affidavit before any one in Sumter county, because it might become known and he might suffer on account thereof; that he wanted to give Wallace justice in the matter, and wanted to give himself a get-away chance.

Cockerill said that he was sorry Wallace had got into the trouble, and sorry that he was the cause of it; that the charge against Wallace was untrue, and that he, Cockerill, had been sent by "the gang" to Wallace's house; that they had started to mob Wallace on one occasion on the road, and that he, Cockerill, had urged them not to do this and finally they decided that they would try to get something on Wallace and get rid of him in a legal way; that they sent him, Cockerill, to Wallace's house, for the purpose of getting something on him; that Cockerill was afraid not to do what they said, because of some private matters between these men and himself.

That Cockerill did not tell deponent who "the gang" or "that bunch" as he sometimes referred to them, was, and deponent could not find out, but gathered the impression that it

was a number of men living in the neighborhood, interested in running Wallace off, and that these men knew something about Cockerill of such a nature that they could get Cockerill in trouble if he did not do as they said;

Cockerill then went on to say that he went to Wallace's house in accordance with the design, and stayed there until an opportunity arose when he thought he could get something on Wallace and that the charge against Wallace were the outcome of his visit; that when the charges were made, it was the plan of "the gang" merely to run Wallace off, and that the gang wanted to settle the case, if Wallace would go off; that no one thought the case would go as far as it did; that he, Cockerill, went ahead and testified as he did at the trial, because he could not help himself, having already committed himself to the story; that the story he told at the trial was not true, and that Wallace had done nothing wrong; that Cockerill was willing to tell this story for the purpose of running Wallace away, but since the trial had resulted as it had, he, Cockerill, had been greatly worried and felt that innocent blood was on his hands;

Cockerill also said that he had not been able to sleep at nights on account of worrying about what he had done; that he had been troubled and uneasy, and that, of his own volition, he had gone to see Wallace and told him that he wanted to tell the truth, but that he was afraid to go to Wallace's lawyers in Sumter for fear it would leak out; that Wallace had told him that he could go to Columbia; that he, Cockerill, told Wallace that he did not know anyone in Columbia to go to; that Wallace had then given him deponent's name and address and told him that deponent would take him to a lawyer for the purpose; Cockerill also told deponent that he had made Wallace promise to let him, Cockerill, know before the matter became public, so that he, Cockerill, would have the chance to get away.

Cockerill seemed to be in his full senses; he did not appear to have been drinking; he seemed anxious to talk; appeared to be a conscience stricken man, with a burden of which he wished to rid himself, and told his story over and over to deponent; that they talked altogether for two or three hours that night and again the next day.

That on the next day, deponent took Cockerill to Mr. A. W. Holman, a lawyer whom deponent knew; that Cockerill told Mr. Holman what he had told deponent the night before and asked Mr. Holman to fix up an affidavit for him; that Mr. Holman, in deponent's presence, advised Cockerill that he was laying himself open to be indicted for perjury and suggested to Cockerill that the affidavit could be so drawn that it would not appear as if Cockerill had knowingly and willfully testified to something that was not true; that Cockerill replied that

he was tired of lying and was going to tell the truth and stick to it, and take the consequences, that Wallace was an innocent man, and that he, Cockerill, could no longer have his blood on his hands; that Mr. Holman then fixed up the affidavit and deponent saw Cockerill sign it.

That deponent went out of the office with Cockerill, and when they reached the street, Cockerill threw back his head, and raised his hand, and that "Thank God, I have got that burden off of myself." That Cockerill appeared then to be a man who had been relieved of something that had been pressing him down, and seemed more cheerful.

That deponent's wife, Mrs. Roberta Hatchell, was not present when deponent and Cockerill were talking the night Cockerill came, but was present the following morning and heard Cockerill tell his story over in substance as herein set forth.

That the conversation Cockerill had with deponent was altogether free and voluntary on Cockerill's part; that deponent in no way held out any inducement to him to say what was said, but, on the contrary, Cockerill's whole attitude and demeanor was that of a man who had come to deponent for the purpose of telling him the truth about the matter which had been worrying him.

(Signed) W. H. Hatchell.
Sworn to before me this 26th day of December, 1921.
Signed. A. S. Harby, (L. S.)
Notary Public for S. C.

Sworn affidavits as follows which were the direct contradiction of the previously filed affidavits were read by the Attorneys for the state, Solicitor Frank A. McLeod and L. E. Wood.

Personally appeared before me N. B. Cockerill, who being duly sworn says: That Hon. Frank A. McLeod, solicitor of the Third circuit, has read very slowly and explained fully to me the following affidavits: affidavit made by W. H. Hatchell, of December 26, 1921, the affidavit by A. W. Holman, dated December 21, 1921, and an affidavit alleged to have been made by me dated December 13, 1921.

I did not go to the home of W. H. Hatchell and introduce myself to him, for I had never heard of him up to that time. Mrs. Bernice G. Wallace, together with DeLeon Wallace took me to Columbia on the night of 12th December, 1921, leaving Sumter in the night time and arriving in Columbia after 12 o'clock in the night. Mrs. Wallace said she wanted me to go with her before Governor Cooper to get Mr. Wallace's sentence commuted from electrocution to life sentence. I thought I was going to a hotel but found I was at the home of Hatchell, to whom I was introduced by my sister, Mrs. Wallace, upon arrival there.

Mr. Hatchell asked me if Wallace was a guilty man, and I told him that he was. I did not state to him nor to anyone else that I was scared of anyone in Sumter County, I further deny having said anything to him about a gang or bunch getting me to set a trap for Wallace, and deny that any such was done. I have never been threatened either before or since this crime by anyone concerning my testimony in the case. I deny stating to Mr. Hatchell or anyone that there was any plan so far as I know or have ever heard of to run Mr. Wallace off.

I did not tell Mr. Hatchell or anyone else that I wanted to have a chance to get away before any affidavit was published. I left Columbia on the night of December 13th and arrived at my home near Sumter at about 2:30 the same night. I have been at my home within five miles of Sumter ever since this time and I have been going about my business just as usual, coming to Sumter in the meantime whenever I wanted to. I did not raise my hand and say "Thank God I have got that burden off myself."

I wish to reaffirm the testimony given by me in this case on trial. I told the whole truth then and I stand by it for what I then said is and was the truth. And this I stated fully to Mr. Hatchell and my sister, Mrs. Wallace. I have never had any uneasiness of mind or remorse of conscience or suffered any loss of sleep by reason of my testimony given on the trial of this case; and all that is stated in Mr. Hatchell's affidavit that is in conflict with what I here and now state is absolutely untrue and false.

Before leaving for Columbia, Mrs. Wallace got a negro man to get a jar of whiskey for me, a two-quart jar full, upon which I started to drink the night before leaving, and continued to drink from this supply until it was all gone by seven o'clock on the morning after the arrival in Columbia, and Mr. Hatchell went off and got a half pint of whiskey for me and after finishing this he got me another half pint. I do not know who paid for this whiskey but no one asked me to pay for it, I was in a drunken and hazy condition from the time I left for Columbia and my arrival there and up to my return home. In this condition I was taken by Mr. Hatchell to a lawyer's office and there signed an affidavit. My recollection is that no one read this affidavit over to me, and I did not at any time understand that I was signing a statement to the effect that I was taking back anything that I had testified to in the trial of J. C. Wallace. Mrs. Wallace and Mr. Hatchell took Mr. Holman out where I could not hear and when they returned they prepared a paper which I signed. I was so drunk and under the influence of whiskey that I hardly know all that was said and done. While in Columbia, Mrs. Wallace bought a suit of clothes for me. She also stated to me that she would give me enough money to leave the country and go to

Cuba in an amount from \$500 to \$1,000, but I refused to accept either the clothes or the money or to leave the country as she had tried to get me to do.

I deny that I have had any conversation with J. N. Browder since the trial of J. C. Wallace. I did not persuade Mrs. Wallace to sign the warrant for the arrest of J. C. Wallace, but I went and got the warrant from the magistrate at her and only her request; that the conversation set forth in Browder's affidavit is false and untrue.

I have never had any conversation about the case of J. C. Wallace with J. E. Logan, and all that he states in his affidavit is absolutely false and untrue.

During the first part of December 1921, at the request of Mrs. Wallace and only after repeated requests, I went to the jail in Sumter to see Mr. Wallace. Mr. Wallace wrote out a statement and asked me to sign it, which I refused to do. This statement was to the effect that my testimony on the trial was untrue and false.

N. B. Cockerill.
Sworn to before me this 18th day of February, A. D., 1922.
H. L. Scarborough.
Clerk of Court or Sumter County, S. C.

I hereby certify that I have this day read slowly and carefully the above affidavit to Mr. N. B. Cockerill and that he was sworn by me just as I swear witnesses in open court.

H. L. Scarborough.
Clerk of Court for Sumter County.

Personally appeared before me Furman Hodge, J. A. Cooper, S. D. Richardson and J. G. Osteen, each of whom being sworn says for himself: That he knows J. N. Browder and has heard read the affidavit made by the said Browder, dated December 30th, 1921; that it is understood and generally known that the said J. N. Browder married what is generally termed a "free negro" or "free issue." That this woman, his wife, is a mulatto woman and is living with him at this time on the place of W. K. Hill; that he is not permitted to associate with white people.

That each of us know the general reputation of J. Frank Logan, the man who made the affidavit in the Wallace case dated October 8th 1921, for truth, veracity and as a law-abiding citizen and that the same is very bad; That each one of us would not believe J. Frank Logan on oath from this reputation.

S. D. Richardson,
J. A. Cooper,
Furman Hodge,
J. G. Osteen.
Sworn to before me this 18th day of February, A. D., 1922.
(Seal) Frank A. McLeod.
Notary Public for South Carolina.

Personally appeared before me Dora E. Wallace, who being duly sworn says: That she has had read over to her an affidavit made by J. E.

Haley, dated December 30th, 1921; that she denies that she ever at any time retracted, altered or changed the testimony given by her in open court in the trial of J. C. Wallace; That she testified to the truth in that trial and that she reaffirms and declares the said testimony to be the whole truth in all particulars.

That J. E. Haley tried to get her to make an affidavit setting forth facts contrary to her testimony given on the trial and that she declined to do so; That J. E. Haley stated to her that J. C. Wallace would pay her if she would change her testimony in certain particulars which she declined to do. He wanted her to state that her testimony was false and untrue.

That J. C. Wallace sent for this deponent three times, each time J. E. Haley brought the message; she refused to go, but finally went with her father; J. C. Wallace asked her in the presence of her father to change her testimony as given on the trial, but this she refused to do, thereupon she left him. That she went to the jail because J. E. Haley said Wallace wanted to ask about his children, of whom she is the mother. That she has never accepted service of any papers or agreed to any divorce with the said J. C. Wallace.

That she has never had any conversation in her life with J. N. Browder, neither does she know him.

That she affirms her testimony as given on the trial to be the whole truth.

X
Dora E. Wallace.
Her Mark.

Witness: Frank A. McLeod.
Sworn to before me this 18th day of Feb. A. D., 1922.
H. L. Scarborough.
C. C. C. P., Notary Public for S. C.

Personally appeared before me J. W. Browder, who being duly sworn says:

That he knows J. N. Browder and has known him for many years; That he knows the reputation of the said J. N. Browder for truth and veracity; That his reputation for truth and veracity is bad and that he would not believe the said J. N. Browder on oath.

That the said J. N. Browder is no kin to this deponent nor to his daughter, Dora Wallace, that he either knows of or ever heard of.

That he was present in the jail in Sumter, S. C., with his daughter when she went to see J. C. Wallace and that he heard the said J. C. Wallace request his daughter to retract her testimony on the trial and say as follows: "I heard others say that J. C. Wallace said he married Mrs. Osteen for her money and that as soon as he had a good time with her daughters and got her money he was going to leave Mrs. Bernice G. Wallace, sometimes called Osteen." That the said Mrs. Dora Wallace refused to do so, but restated that her testimony as given on the trial was the whole truth.

X
J. W. Browder.

His Mark.
Witness: F. A. McLeod.
Sworn to before me this the 20th day of Feb. A. D., 1922.
(Seal) H. L. Scarborough.
Notary Public for South Carolina.

Personally appeared before me S. D. Richardson and J. A. Cooper, each of whom being duly sworn says:

That they have been familiar with the getting up of witnesses and the general prosecution in the State vs. Wallace; That they live in the vicinity in which the crime is alleged to have been committed; That no threats, coercion or pressure that know of or have ever heard of has been brought to bear upon any witness in this case; That they feel sure that if any such work had been done that they would have known of it.

S. D. Richardson,
J. A. Cooper.
Sworn to before me this the 24th day of Feb. A. D., 1922.
(Seal) Frank A. McLeod.
Notary Public for South Carolina.

Personally appeared before me J. A. Hodge, who being duly sworn says:

That he is a magistrate for Sumter county; That the warrant issued against J. C. Wallace was taken out before him; That the warrant was issued on the affidavit of Mrs. J. C. Wallace, who was formerly Mrs. Osteen; That he has lived all of his life in the vicinity in which this crime is alleged to have occurred; That he has never heard any one, nor has he ever heard of any one, either threatening or coercing any witness as to their proposed testimony in the State vs. Wallace, nor was there any pressure brought to bear on any one either before or since the trial in any way or manner that this deponent knows of or can learn of; That this deponent was so situated that he firmly believes that he would have known anything that happened in the matter of testimony in the Wallace trial.

That he knows well J. N. Browder and J. Frank Logan and that he has heard their reputations for truth and veracity discussed and that it is bad; That from this reputation he would not believe the said J. N. Browder on oath; That from the reputation of the said J. Frank Logan he would not believe him on oath; That the said J. N. Browder married what is generally termed in that section a free negro, to-wit; a mulatto negro. That this deponent knew well the parents of the aforesaid negro wife of J. N. Browder.

That he does not know J. E. Haley and that the said Haley does not live in the same vicinity in which this deponent resides.

J. A. Hodge,
Sworn to before me this 22nd day of February, A. D., 1922.
(Seal) Frank A. McLeod.
Notary Public for South Carolina.

After hearing the reading of the affidavits from both the counsel for defense and for the state and hearing all arguments, Judge Shipp reserved his decision until he could further study the facts of the entire case.

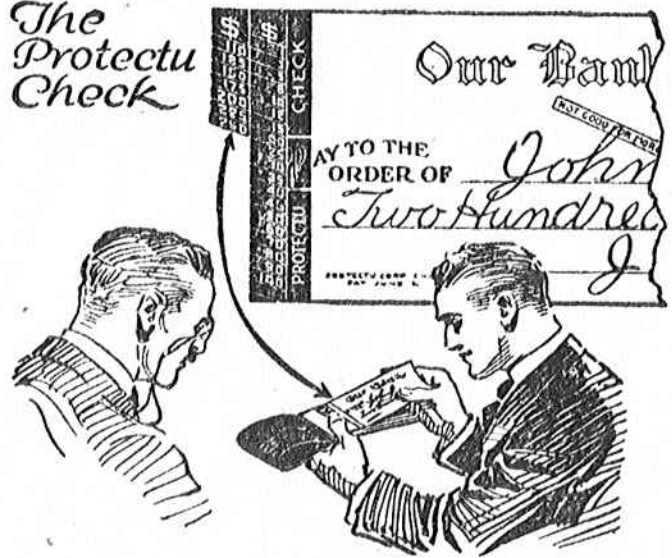
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NOTICE OF DISCHARGE

I will apply to the Judge of Probate for Clarendon County on the 20th d of March, 1922 at 11 o'clock A. M. for Letters of Discharge as Executrix of the Estate of Esther Jane Carson, deceased.

Julia E. Clemons,
Executrix.
Greeleyville, S. C. Feb. 18, 1922.

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